

REMARKS

In response to the Office Action of February 26, 2009, claims 1, 7, 8, 9, 15, 17, 18, 25, and 27 have been amended. Further, claims 2, 10, 19, and 26 have been canceled.

Claims 1, 9, 18, 25, and 27 have been amended to incorporate the subject matter of claims 2, 10, 19, 26, and 2 respectively. Specifically, the claims have been amended to recite: wherein the secure processing point further performs associating a unique device identity with the unique chip identifier; signing the result of said associating with a manufacturer private signature key corresponding to a manufacturer public signature key stored in a read-only memory of the personal device, thereby generating a certificate for the unique device identity; storing the certificate in the device; and storing the unique device identity and the certificate in association with the backup data package and the unique chip identifier in the permanent public database

Claims 1, 7, 9, 15 and 17 have been further amended to correct informalities.

Claim Objections

At page 5 of the Office Action, claims 1, 7, 9-10, 15 and 26 are objected to for various informalities. Appropriate corrections have been made to the claims to correct the informalities, therefore, it is respectfully requested the objections to the claims be withdrawn

Claim Rejections- 35 U.S.C. 101

At page 6 of the Office Action, claim 27 is rejected under 35 U.S.C. 101 because it is asserted the claimed subject matter is directed to a non-statutory subject matter.

It is respectfully submitted that claim 27 as amended does recite statutory subject matter. Claim 27 recites a device having means plus function elements, the functions being those recited above with regard to method claim 1. The specification shows in Figure 1 a system which includes the elements for performing the operations of preferred embodiments of the present invention. The specific structure includes a secure processing point 150 with processing means 155 for performing recited functions as specified in the application as filed, including page 9, line 24 through page 15, line 24, including the various actions recited and illustrated in steps 1-8. Since claim 27 is

written using means plus function terminology, it includes the structure for performing the functions as specifically shown in Figure 1. Those structures include the processing means 155 which clearly therefore shows that the “means for” elements cannot be construed so broadly as to include mental processes.¹

Claim Rejections- 35 U.S.C. 112

At page 7 of the Office Action, claims 7, 15 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 7 and 15 are rejected for insufficient antecedent basis for the limitation “the secret database.” These claims have been amended to recite “the secure database.” Because there is sufficient antecedent basis for this term, it is respectfully submitted that claims 7 and 15 are in allowable form. Claim 27 as amended is believed to be definite since the means plus function elements have processing means structure support in the drawings and specification (see above argument with respect to rejection of claim 27 under 35 USC §101).

Claim Rejections- 35 U.S.C. 103

At pages 8-19 claims 1, 3-4, 6, 9, 11-12, 14, 17-18, 19-21, 23, 25, and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mauro (US 2002/0147920) in view of Craft et al. (US 2002/0150243, hereinafter Craft) further in view of Okimoto et al. (US 6,978,022 B2, hereinafter Okimoto).

To the extent they are applicable, bearing in mind the amendments and cancelations of some of those claims, the arguments put forth by the applicants in the Amendment after final filed on December 18, 2008, in response to the final Office Action of September 17, 2008, are respectfully upheld.

Furthermore, claim 1 has been amended to recite the features of previous claim 2. At page 19 of the Office Action previous claim 2 is rejected under 35 U.S.C. §103(a) as

¹ The Office in its rejection under 35 USC §101 states that the language of claims 24 and 37 broadly encompass non-tangible embodiments. The rejection is in regard to claim 27, not claim 24. Furthermore, there is no claim 37 in the present application.

being unpatentable in view of Mauro in view of Craft further in view of Okimoto et further in view of Messerges et al. (US 2002/0157002, hereinafter Messerges). More particularly the Office asserts that Mauro, Craft and Okimoto disclose the method as described in claim 1, and Craft further discloses associating a unique device identity with the unique chip identifier, signing the result of said associating with a manufacturer private signature key corresponding to a manufacturer public signature key stored in a read-only memory of the device, thereby generating a certificate for the unique device identity, and storing the unique device identity and the certificate in association with the backup data package and the unique chip identifier in the permanent public database, with reference made to paragraphs [0013], [0015], [0033], [0036], [0041], and [0043] and Figure 2. It is further asserted that Messerges discloses storing the certificate in the device and that it would have been obvious to combine the four references because it would provide security requirements of digital content while also providing an enjoyable user experience for the end user. The applicants respectfully disagree.

With respect to the claimed feature of “associating a unique device identity with the unique chip identifier”, Craft discloses a client serial number being embedded or fixed within the client’s processor chip, as mentioned in paragraphs [0015] and [0041]. There is no mention of any particular unique device identity in addition thereto. In addition to failing to disclose a unique device identity, Craft also fails to disclose associating the unique device identity with the unique chip identifier. As one having ordinary skill in the art would understand this feature of the claim, it is clear that Craft fails to disclose “associating a unique device identity with the unique chip identifier.”

With respect to the claimed feature of “signing the result of said associating with a manufacturer private signature key corresponding to a manufacturer public signature key stored in a read-only memory of the personal device, thereby generating a certificate for the unique device identity”, Craft still fails to disclose the associating, as stated above. Moreover, Craft does not mention a manufacturer private signature key or a manufacturer public signature key, and thus is also silent about generating a certificate for the unique device identity. Consequently, there is neither any disclosure of a signing procedure of the kind defined in this feature. Paragraph [0036] of Craft discloses that it is possible to sign data by computing a digital signature from the data

and a private key of the signer. It is possible to invent a number of ways to sign data by means of computing a digital signature from the data and the private key of the signer. All of them previously invented and those to come reasonably cannot be known by this very general information, including the very specific way of signing as defined here.

With respect to the claimed feature of "storing the unique device identity and the certificate in association with the backup data package and the unique chip identifier in the permanent public database," this is also not disclosed in Craft. As applicants have thoroughly explained previously, Craft does not disclose the generation of a backup package as defined in claim 1. Furthermore, Craft does not disclose a unique device identity or a certificate of the kind defined in the claims, as explained above. Consequently, the client serial number, and the client public key which can be stored in the client public key data store are certainly distinguishable from the certificate and the unique device identity, and they are not stored in association with a backup data package.

Furthermore, it has been revealed that WO 02/03271, filed in an IDS on March 10, 2009, discloses a system including an IC card and an external device, such as a PC. The system is used for data backup/restore operations for the IC card. The IC card is connectable to the external device via an IC card reader/writer. The external device can upload data to the reader/writer for storage in the IC card. Backup data, encrypted by an encryption key stored in the IC card, is sent from the IC card along with a card number of the IC card and is stored in a disk device in the external device.

Applicant would like to note that the features which were previously presented in claim 2 and which are now incorporated into amended claim 1 are also not disclosed in WO 02/03271.

Additionally it should be mentioned that the above features which are not disclosed in WO 02/03271 or in Craft are also not derivable from a combination of these prior art documents.

For all the foregoing reasons, it is respectfully submitted that amended claim 1 is not suggested by a combination of Mauro and Craft further in view of Okimoto further in view of Messerges, nor a combination of WO 02/03271 with one or more of these references.

For similar reasons as those presented above with respect to claim 1, it is respectfully submitted that independent claims 9, 18, 25, and 27 are patentable, since each of these claims recite features corresponding to those recited above with respect to claim 1.

Furthermore, dependent claims 3-8, 11-17, and 20-24 are patentable as well, at least in view of their dependency from the independent claims.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alfred A. Fressola', written over a horizontal line.

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